

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES**

January 22, 2003

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

William Elkins, President
Ron Alvarado, Vice President
Florence Bos, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The Governor's proposed budget for the fiscal year of 2003-2004 reduces the State Personnel Board's (SPB) budget by \$3 million dollars and 54.5 positions. The cuts will impact critical areas of SPB.
- B. State Personnel Board (SPB) staff will schedule meetings in February 2003, with SPB Board members and department directors who have not submitted their Equal Employment Opportunity (EEO) and/or Bilingual Service reports.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

** The State Personnel Board Summary Minutes can be obtained at the following Internet address:
<http://www.spb.ca.gov/spbmeet/spbminrd.cfm>

The Chief Counsel reported on:

Litigation:

- A. Moosa v. State Personnel Board (SPB) - The California Supreme Court has denied the Petition for Review filed by the California State University and SPB as well as SPB's request for de-publication.
- B. State Personnel Board (SPB) v. Department of Personnel Administration (DPA) - The State Personnel Board has filed a request for an immediate stay of the proceedings before the Public Employment Relations Board in the International Union of Operating Engineers (IUOE) v. SPB and of the proceedings in IUOE(Lunsford) v. State of California.
- C. California Highway Patrol (CHP) v. State Personnel Board (Fink) - Superior court granted petition for writ of mandate filed by CHP finding Fink's appeal from constructive medical termination to be untimely, but also noting that it would have found in Fink's favor, i.e. that he was constructively medically terminated when CHP refused to reinstate him from disability retirement, had the petition been timely filed.
- D. Trustees of California State University (CSU) v. State Personnel Board (SPB) (Berger-Tully) - Superior court has granted CSU's writ overturning SPB's decision and finding that the Board does not have jurisdiction to hear employee's claim that rejection during probation was untimely served.
- E. Singh v. State Personnel Board (SPB) (Department of Consumer Affairs) - Petition for Writ of mandate denied in this case challenging SPB's denial of an examination appeal.

Other:

- A. Council of Counsels Meeting - Scheduled for February 6, 2003, from 1:30 to 3:30 p.m., at the offices of the State Personnel Board, located at 801 Capitol Mall, Room 312, Sacramento, California.

4. NEW BUSINESS

- A. On January 22, 2003, the Board adopted the following resolution:
VOTE: Elkins, Alvarado, Bos - Aye.

Whereas, the Governor's proposed budget for 2003-2004 eliminates General Fund support for the State Personnel Board; and

Whereas the State Personnel Board recognizes that the current budget deficit requires a proportionate and fair level of funding reduction; and

Whereas, the proposed budget cut will have a devastating impact on the Board's ability to meet critical requirements as mandated in Article VII of the California Constitution and statutory obligations; and

Whereas, the members of the State Personnel Board are deeply concerned about the severe impact of these cuts on members of the public, employees, departments, and our staff;

Therefore Be It Resolved, that the members of the State Personnel Board request a meeting with the Governor to discuss restoration of a minimal level of necessary funding for these critical programs; and

Be It Further Resolved, that the members of the State Personnel Board appoint President William Elkins and Member Sean Harrigan to represent the Board in the meeting with the Governor.

5. REPORT ON LEGISLATION - Laura Aguilera, Assistant Executive Officer

The Board voted on the following:

- A. AB 79 (Dutra) - Would suspend requirements for state departments and local agencies to prepare and submit various reports to the Legislature or the Governor until January 1, 2003. NEUTRAL
VOTE: Elkins, Bos, Alvarado - Aye.

The Board was advised of the following:

- A. The Legislative office has submitted five legislative proposals to the Office of Legislative Counsel. The last day to submit requests is January 24, 2003.

BOARD ACTIONS

6. STATE PERSONNEL BOARD SUMMARY MINUTES OF JANUARY 7, 2003

ACTION: Adopted on January 22, 2003.

VOTE: Elkins, Alvarado, Bos - Aye.

7. ADMINISTRATIVE LAW JUDGE CASES

On January 22, 2003, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Alvarado, Bos - Aye.

PROPOSED DECISIONS

ARMANDO AGUIRRE, CASE NO. 02-3105

Appeal from dismissal

Correctional Sergeant

Blythe - State Prison

Department of Corrections

ACTION: Dismissal modified to 30 days suspension

KAMAL AHUJA, CASE NO. 02-1918

Appeal from rejection during

probationary period

Air Resources Engineer

Air Resources Board

ACTION: Rejection during probationary period revoked

MAUREEN ALVAREZ, CASE NO. 02-0192

Appeal from 90 working days suspension

Drafting Services Aid

Department of Transportation

ACTION: 90 working days suspension modified to 30 working days suspension

CRAIG S. EVERETT, CASE NO. 02-3280

Appeal from dismissal

Officer

Department of California Highway Patrol

ACTION: Dismissal modified to a six months suspension

HARRY MILLER, CASE NO. 02-0160
Appeal from demotion and reassignment
of Correctional Sergeant with the
Transportation Unit at Sacramento
to the position of Correctional Officer
Norco - California Rehabilitation Center
Department of Corrections
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

MOUNZER NAJJAR, CASE NO. 02-3417
Appeal from non-punitive termination
Transportation Engineer (Electrical)
Department of Transportation
ACTION: Non-punitive termination sustained

ZEWDIE SENBETU, CASE NO. 02-1955
Appeal from non-punitive termination
Transportation Engineer (Civil)
Department of Transportation
ACTION: Non-punitive termination sustained

ROBBIN ROWE, CASE NO. 02-2457
Appeal from rejection during probation
Workers Compensation Claims Adjuster
State Compensation Insurance Fund
ACTION: Action or appeal withdrawn

ANNELIESE ANDERLE, CASE NO. 01-2529E
Appeal of discrimination
Energy & Mineral Resource Engineer
Department of Conservation
ACTION: Discrimination appeal denied

PETITIONS FOR REHEARING

CARL R. WEBB, CASE NO. 01-3795
Appeal from dismissal
Protestant Chaplain
Blythe - Ironwood State Prison
Department of Corrections
ACTION: Petition for rehearing filed by appellant denied

DEBORAH WHITE-SANBORN, CASE NO. 02-1155

Appeal from dismissal
Senior Special Investigator
Porterville - Developmental Center
Department of Developmental Services
ACTION: Petition for rehearing filed by appellant granted

8. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 13-16.

9. WITHHOLD APPEALS

On January 22, 2003, the Board adopted the following
decisions presented by Laura Aguilera, Assistant Executive
Officer, California State Personnel Board.

VOTE: Elkins, Alvarado, Bos - Aye.

ARNEL AGUSTIN, CASE NO. 02-1504
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

WILLIE BYNUM, CASE NO. 02-2205
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

RODOLFO BRYSON, CASE NO. 01-2004
Classification: Automotive Equipment Operator I
SUZANNA LAY, CASE NO. 01-1313
Classification: Licensed Vocational Nurse
ANNA, MATSUO, CASE NO. 01-1309
Classification: Psychiatric Technician
Department of Developmental Services
ACTION: GRANTED

BELLE CAMPOS, CASE NO'S 02-0625 & 02-0626
Classifications: Employment Program Representative &
Disability Insurance Program Representative
ACTION: GRANTED

PAMELA CLINE, CASE NO. 02-1503
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

BONNIE FASSLER, CASE NO. 01-0298A

Minutes - Page 7
January 22, 2003

Classification: Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: GRANTED

GABRIEL GUTIERREZ, CASE NO. 02-0232
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

CIRIACO GUZMAN, CASE NO. 02-2288
Classification: Youth Correctional Officer
California Youth Authority
ACTION: GRANTED

LEON JACKSON, CASE NO. 02-0860
Classification: Correctional Officer
Department of Correction
ACTION: DENIED

LAKEISHA JOHNSON, CASE NO. 01-0082A
Classification: Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: DENIED

MINDY LOVEL, CASE NO. 01-0348A
Classification: Caltrans Highway Maintenance Worker
Department of Transportation
ACTION: DENIED

JOSEPH MOORE, CASE NO. 00-3002A
Classification: Caltrans Highway Maintenance Worker
Department of Transportation
ACTION: GRANTED

JEANNETTE NELSON, CASE NO. 01-0342A
Classification: Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: DENIED

SANDRA NESBIT, CASE NO. 01-0840A
Classification: Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: DENIED

TRAVIS PHILMLEE, CASE NO. 01-0517A

Classification: Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: DENIED

DEANTE PIGGEE, CASE NO. 01-0724A
Classification: Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: DENIED

CURTIS SCOTT, CASE NO. 02-1425
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

DAVID STEINER, CASE NO. 02-1429
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

WILLIAM WRIGHT, CASE NO. 02-2148
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

10. REQUEST TO FILE CHARGES CASES
PETITIONS FOR REHEARING CASES
On January 22, 2003, the Board adopted the following
decisions presented by Laura Aguilera, Assistant Executive
Officer, California State Personnel Board.
VOTE: Elkins, Alvarado, Bos - Aye.

(Request to File Charges Case)

MICHAEL HORNSBY, CASE NO. 01-4202
Classification: A member of the public
Department of Health Services
ACTION: GRANTED

(Petition for Rehearing Case)

ROBERT BURKS, CASE NO. 01-3683P
Classification: Sergeant, CHP
California Highway Patrol
ACTION: DENIED

TERENCE EASTERLING, CASE NO. 02-0131P

Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

AMBER JONES, CASE NO. 01-3636P
Classification: Medical Technical Assistant
Department of Corrections
ACTION: DENIED

JASON STERLING, CASE NO. 01-1456P
Classification: Energy Analyst
California Energy Commission
ACTION: DENIED

11. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER
CONSIDERATION

None submitted.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
ESTABLISH NEW CEA POSITIONS

(1) ASSISTANT SECRETARY, EXTERNAL AFFAIRS

The Department of Health Services request to
allocate the above position to the CEA category
has been approved effective
December 26, 2002.

(2) DIRECTOR, STATE MONITORED SCHOOLS

The Department of Education's request to allocate
the above position to the CEA category has been
approved effective
December 20, 2002.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. EXPEDITED HEARINGS - PROPOSED AMENDMENT TO STATE PERSONNEL BOARD RULE 52.4. (Hearing held May 7, 2002).

NO ACTION

2. ANSWER ON APPEALS FILED WITH STATE PERSONNEL BOARD.
PROPOSED AMENDMENT TO STATE PERSONNEL BOARD RULE 63.
(Hearing held May 7, 2002).

NO ACTION

3. Status of the State's Decentralized Testing. (Hearing held July 9, 2002).

NO ACTION

4. MERIT RULE - Proposed adoption of the new Section 250 to the California Code of Regulations (CCR) entitled Requirement that Selection be Based on Merit and Fitness. (Hearing held July 23, 2002).

NO ACTION

5. BRIAN JONES, CASE NO'S 99-3883 & 00-4930. Appeal from dismissal. State Fair Exposition. (Oral argument held October 8, 2002).

NO ACTION

6. MERIT SELECTION MANUAL. (Hearing held November 6, 2002).

NO ACTION

7. PATRICIA SABATO-JONES, CASE NO. 01-3789. Appeal from dismissal. Unemployment Insurance Board. (Oral argument held November 6, 2002).

NO ACTION

8. TEACHER STATE HOSPITAL(SEVERLY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

9. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES).
Departments of Mental Health and Developmental Services.
(Hearing held December 3, 2002).

NO ACTION

10. LEONARD GRILL, CASE NO. 02-1166. Appeal from ten percent reduction in salary for nine pay periods. Department of Forestry and Fire Protection. (Oral argument held December 3, 2002).

NO ACTION

11. RUFUS LINDSEY, CASE NO. 01-3651. Appeal from dismissal. Department of Corrections. (Oral argument held December 4, 2002).

NO ACTION

12. VICTORIA MCCOY, CASE NO. 01-3372. Appeal from dismissal. Department of Corrections. (Oral argument held December 4, 2002).

NO ACTION

13. DAVID NUNEZ, CASE NO. 98-3145. Appeal from five percent reduction in salary for six months. Department of Corrections. (Oral argument held December 4, 2002).

NO ACTION

14. EEO REGULATIONS
Proposed revisions to state and local agency merit systems equal employment opportunity regulations. (Hearing held January 7, 2003).

NO ACTION

15. LAYOFF RULES
Proposed amendments and adoption of regulations relating to layoff: Title 2, California Code of Regulations (2CCR), §§ 470, 470.1, 471, 471.1 and 472, Local Agency Personnel Standards §§ 17502 and 17520. (Hearing held January 7, 2003).

NO ACTION

Minutes - Page 12
January 22, 2003

16. KIM HONG, CASE NO. 01-3587P. Appeal from transfer. Department of Corrections. (Oral argument held January 7, 2003).

NO ACTION

17. DEBORAH WHITE-SANBORN, CASE NO. 02-1155. Appeal from dismissal. Department of Developmental Services. (Petition for Rehearing filed by respondent presented to Board January 7, 2003).

ACTION: On January 22, 2003, Board granted petition for rehearing filed by appellant. See page 6.

Vote: Elkins, Alvarado, Bos - Aye.

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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Minutes - Page 16
January 22, 2003

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on January 22, 2003.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Elkins, Alvarado, Bos - Aye.